

**BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA**

**IN THE MATTER OF  
THE HONORABLE BRENT L. HALL  
MAGISTRATE OF KANAWHA COUNTY**

**COMPLAINT NO. 114-2017**

**PUBLIC ADMONISHMENT OF MAGISTRATE HALL**

The matter is before the Judicial Investigation Commission upon a complaint filed by Judicial Disciplinary Counsel setting forth certain allegations against the Honorable Brent L. Hall, Magistrate of Kanawha County (hereinafter "Respondent"). Specifically, Judicial Disciplinary Counsel alleged that Respondent inappropriately commented on a pending case in violation of the Code of Judicial Conduct.

Upon receipt of the complaint, an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure. After a review of the complaint, the Respondent's written reply, the information and documents obtained from the investigation and the pertinent Rules contained in the Code of Judicial Conduct, the West Virginia Judicial Investigation Commission (hereinafter "Commission"), at its October 27, 2017 meeting, found probable cause to believe that Respondent violated Rules 1.1, 1.2, 1.3, 2.3, 2.4(B), 2.10(A), and 3.1(A), (B), and (C) and orders that he be publicly admonished pursuant to Rules 1.11 and 2.7(c) of the Rules of Judicial Disciplinary Procedure, as set forth in the following statement of facts and conclusions:

**STATEMENT OF FACTS**

Respondent became a Magistrate in Kanawha County on or about January 1, 2013, and has served continuously in that capacity since that time. At all times relevant to the facts and circumstances set forth herein, Respondent was employed as a Magistrate.

During the afternoon hours of September 5, 2017, Tracie Williams was arrested on felony charges of financial exploitation of the elderly, obtaining money by false pretenses, conspiracy,

forgery and computer fraud for allegedly forging her dying mother's will to receive more than \$1,000,000.00. Respondent arraigned Ms. Williams on the charges in Kanawha County Day Court. WSAZ-TV was present for and filmed the arraignment. Later that same day, the television station ran a story on Ms. Williams. Respondent prominently appeared throughout the news story.

At some point that evening, Respondent posted a still photo of the video on his Facebook page showing him seated in Day Court conducting the initial appearance for Ms. Williams. The caption underneath the photo read "Police: Woman Exploits Over One Million Dollars from Dying Mom" and the news logo appeared to the right of the heading. Respondent's Facebook post elicited several negative posts from members of the public including but not limited to "[d]isgusting," "[h]ang 'em high Brent," "[hopefully you set a high bond" and "I didn't think anything could be lower than rescinding DACA. I was wrong." The comments also included statements of support for Respondent's handling of the arraignment such as "[g]o Brent" and "[g]et 'em Brent" and "[t]hat face! Good one."

By letter dated September 11, 2017, Judicial Disciplinary Counsel asked Respondent to reply to the allegations contained in the ethics complaint. In a terse reply dated September 15, 2017, Respondent stated:

I deny the allegations brought before me. I have not made any comment about any pending/impending matter. I have posted a still photo shot of myself without any comment, opinion, or statement. I ask that this complaint be dismissed.

### **CONCLUSIONS**

The Commission, by a vote of 8-0,<sup>1</sup> determined that probable cause does exist in the instant complaint and that the Honorable Brent L. Hall, Magistrate of Kanawha County, violated

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<sup>1</sup> The Commission consists of six judicial officers and three lay members. One judicial officer was not in attendance at the October 27, 2017 meeting.

Rules 1.1, 1.2, 1.3, 2.3, 2.4(B), 2.10(A) and 3.1 (A), (B), and (C) of the Code of Judicial Conduct which provide in pertinent part:

**Rule 1.1 – Compliance With the Law**

A judge shall comply with the law, including the West Virginia Code of Judicial Conduct.

**Rule 1.2 – Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

**Rule 1.3 – Avoiding Abuse of the Prestige of Judicial Office**

A judge shall not abuse the prestige of judicial office to advance the personal . . . interests of the judge or others, or allow others to do so.

**Rule 2.4 – External Influences on Judicial Conduct**

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment.

**Rule 2.10 – Judicial Statements on Pending and Impending Cases**

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing. . . .

**Rule 3.1 Extrajudicial Activities in General**

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge’s judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality; . . . .

The Commission further determined that formal discipline was not appropriate under the circumstances. However, the Commission found that the violations were serious enough to warrant a public admonishment.

Preamble [1] to the Code of Judicial Conduct states in pertinent part:

An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

Preamble [2] provides that “[j]udges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity and competence.

Comment [1] to Rule 1.2 states that “public confidence in the judiciary is eroded by improper conduct and conduct that creates an appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.” Meanwhile, Comment [2] notes that a judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge’s conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. Comment [5] states that actual improprieties include “violations of law, court rules or provisions of this Code.” It also sets forth a test for appearance of impropriety – “whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s . . . impartiality.”

Comment [1] to Rule 1.3 states that “it is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind.” Importantly, Comment [1] to Rule 2.4 provides that “[a]n independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.” Comment 1 to Rule 2.10(A) notes that the restrictions “on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.” Significantly, Comment 6 to Rule 3.1 states that “[t]he same Rules of the Code of Judicial Conduct that govern a judicial officer’s ability to socialize and communicate in person, on paper, or over the telephone also apply to the Internet and social networking sites like Facebook.”

Respondent said he did not comment on any pending or impending case. The Commission strongly disagrees. There is an old maxim that “a picture is worth a thousand words.” The saying is designed to convey the concept that a single image often expresses an intricate idea better than any written description. By placing that still photo on his Facebook page, Respondent expressed to his Facebook friends the woman’s perceived guilt in a louder voice and in a more certain tone than if he had actually written the words himself. The post was also designed to elicit responses from his friends because that’s what Facebook is meant to be – an alternative public means of communication. The fact that the friends’ comments were largely negative is no surprise, and Respondent’s failure to remove them constituted a tacit endorsement of the same. By engaging in such conduct, Respondent also clearly called into question the integrity and independence of the judiciary. Instead, Respondent adopted a position that was

certainly contrary to the neutral and detached demeanor of all judges but was undoubtedly popular with his friends.

Based upon the foregoing, it is the decision of the Judicial Investigation Commission that the Honorable Brent L. Hall, Magistrate of Kanawha County, be disciplined. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Magistrate Hall for his conduct as fully set forth in the matters asserted herein and warns him to refrain from engaging in similar behavior in the future.

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Pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure, the Respondent has fourteen (14) days after receipt of the public admonishment to file a written objection. If the Respondent timely files an objection, the Judicial Investigation Commission shall, pursuant to the Rule, file a formal charge with the Clerk of the Supreme Court of Appeals of West Virginia.

  
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Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

10-31-17  
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Date

REW/tat